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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/029,073

12/20/2001

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almeida073

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EXAMINER

THEIN, MARIA TERESA T

ART UNIT

PAPER NUMBER

3627

NOTIFICATION DATE

DELIVERY MODE

11/18/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lventre@lventre.com  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/029,073	<b>Applicant(s)</b> ALMEIDA, JOHN	
	<b>Examiner</b> MARISSA THEIN	<b>Art Unit</b> 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 276-332 is/are pending in the application.
- 4a) Of the above claim(s) 297-307 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1-10-08</u> .                                                 | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election with traverse of Invention 1 (Claims 276-296 and 308-332) in the reply filed on August 1, 2008 is acknowledged.

Claims 297-307 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on August 8, 2007.

Applicant remark pertaining to the Election/Restriction.

Examiner does not agree. The inventions are distinct because Invention I includes a third e-shop/website wherein the third e-shop/website virtually presents the first good/content and the second good/content as if the first and the second originated from originated the third e-shop/website and Invention II includes the second e-shop/website presenting the second good/content together with a virtual presentation of first good/content as if the first dynamic good/content originated from second e-shop/website.

### ***Response to Amendment***

Applicant's "Amendment" filed on April 10, 2008 has been considered.

Claims 1-275 are cancelled. New claims 276-332 are added. Claims 297-307 are withdrawn. Claims 276-296 and 308-332 remain pending in this application.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

Art Unit: 3627

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 276-296 and 308-332 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 276 and 308 are not sufficiently precise due to the combining of two different statutory classes of invention in a single claim. The preamble the claim refers to a network, but the body of the claim discusses the specifics of the system (server) and subsequently the claim then deals with the specifics of a computer readable medium.

Claims 277-296 and 309-332 are rejected as being dependent on claims 276 and 308 as discussed above.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 276-296 and 308-332 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. 35 U.S.C. §101 requires that in order to be patentable the invention must be a “new and useful process, machine, manufacture or composition of matter or new and useful improvement thereof” (emphasis added). Applicant’s claims a “network” which is not a process, machine, manufacture or composition of matter mentioned. Then the claims recite “a server” and “software” which embrace or overlap two different statutory classes of invention as set

Art Unit: 3627

forth in 35 U.S.C. §101. The claim begins by discussing a “network” (ex. Preamble of claim 11), the body of the claim discusses the specifics of the system (server) and computer readable medium. (See rejection of claims under 35 U.S.C. §112, second paragraph, for specific details regarding this issue). “A claim of this type is precluded by express language of 35 U.S.C. §101 which is drafted so as to set forth statutory the statutory classes of invention in the alternative only”, Ex parte Lyell (17USPQ2d 1548).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 276-296 and 308-332 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application Publication No. 2001/0056377 to Kondoh et al. in view of U.S. Patent Application No. 2002/0178271 to Graham et al.**

Regarding claims 276 and 308, Kondoh discloses a network, comprising a server; a first e-shop/website or host hosting a first good/content; a second e-shop/website or host; a third e-shop/website or host; and enable the third e-shop/website or host to virtually present the first good/content and the second good/content as if the first good/content and the second good/content originated from the third e-shop/website or host, and, manage the first e-shop/website, the second e-shop/website or host, and the third e-shop/website or host (Figure 2; Figure 4; Figure 5;

Art Unit: 3627

paragraph 46; paragraph 57). However, Kondoh does not explicitly disclose dynamic content.

Graham, on the hand, teaches dynamic content (paragraph 11; paragraph 24; paragraph 27).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the network of Kondoh, to include dynamic content, in order to provide stability, flexibility and compatibility in file management (Graham, paragraphs 16-18).

Regarding claims 277-296 and 309-332, Kondoh discloses the formatted content page having a first portion of the first good/content hosted by the first e-shop/website and at least a second portion of the second good/content hosted by the second e-shop/website; the second e-shop/website or host virtually combine the first good/content as if the first good/content originated from the second e-shop/website; first, second and third e-shop/website or host manages the content; a content page that has at least a portion of the first good/content hosted by the first e-shop/website or host; a content page that has at least a portion of the second good/content hosted by the second e-shop/website or host; user interface is a user-uploaded interface; a database table; a first identification marking; a second identification marking; third e-shop/website or host hosting a third good/content; to enable the first e-shop/website or host to virtually present the third good/content hosted by the third e-shop/website or host as if said third good/content originated from the first e-shop/website or host; to format a content page, the content page having at least a first portion of the first good/content, at least a

Art Unit: 3627

second portion of the second good/content and at least a third portion of the third good/content; foreign language; hosted in an infrastructure selected from a group consisting of a location; a URL address; a database; a database table; a computer; and, a network address; virtual; the good/content is selected from a group consisting of a good for sale; wherein the third e-shop/website can interface with an end user viewing the first good/content and the second good/content; and wherein the first host and the second host are e-shop, and the third host is an e-mall (Figure 1; Figure 2; Figure 3; Figure 4; Figure 5; Figure 6; Figure 12; Figure 13; paragraph 26; paragraph 52; paragraph 57).

However, Kondoh does not explicitly disclose dynamic content.

Graham, on the hand, teaches dynamic content (paragraph 11; paragraph 24; paragraph 27).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the network of Kondoh, to include dynamic content, in order to provide stability, flexibility and compatibility in file management (Graham, paragraphs 16-18).

### ***Response to Arguments***

Applicant's arguments with respect to claims 276-296 and 308-332 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,028,940 to Tanaka et al. discloses a virtual hop computer network system which displays member shops.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARISSA THEIN whose telephone number is (571)272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



Art Unit: 3627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mtot

November 10, 2008

/F. Ryan Zeender/

Supervisory Patent Examiner, Art Unit 3627